



FINANCIAL  
SERVICES  
ROUNDTABLE

December 8, 2014

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW,  
Washington, DC 20554

Re: American Bankers Association Petition for Exemption  
CG Docket No. 02-278

Dear Ms. Dortch:

The Financial Services Roundtable (“FSR”)<sup>1</sup> appreciates the opportunity to express its support for the petition filed by the American Bankers Association (“ABA”) on October 14. In particular, FSR wishes to stress the need for the Federal Communications Commission (the “Commission”) to grant exemptions from the Telephone Consumer Protection Act’s (“TCPA”);<sup>2</sup> restrictions on automated calls to mobile devices for time-sensitive informational calls placed without charge to the called parties that alert consumers about (a) steps consumers can take to prevent or remedy harm caused by data security breaches, and (b) actions needed to arrange for receipt of pending money transfers.

As the ABA stated in its Petition for Exemption,<sup>3</sup> and as discussed below, calls in these two categories deliver significant benefit to consumers. For financial services companies, delivering automated messaging to mobile devices is the fastest, most functional and most cost-effective means to communicate time-critical information to their customers.

However, the flood of TCPA class action law suits, alleging that automated calls were placed to mobile devices without the recipients’ prior express consent, is hampering the ability and willingness of financial services companies to initiate automated messages

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<sup>1</sup> As advocates for a strong financial future™, FSR represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. FSR member companies provide fuel for America’s economic engine, accounting directly for \$78.3 trillion in managed assets, \$ 980 billion in revenue, and 2.1 million jobs.

<sup>2</sup> 47 U.S.C. § 227.

<sup>3</sup> Petition for Declaratory Ruling of the American Bankers Association, CG Docket No. 02-278 (filed October 14, 2014).

to consumers' mobile devices. Even when a customer has furnished a mobile telephone number to the company, plaintiffs' attorneys may assert that the consumer providing the number did not specifically consent to receive information about the steps consumers can take to prevent or remedy harm caused by a data security breach or actions needed to arrange for receipt of a pending money transfer. The threat of ill-founded but costly class action litigation discourages financial services companies from using the most timely and reliable means of communication.

## Discussion

Like the ABA, FSR believes that the exemptions will protect consumers' privacy and are appropriate and necessary to enable financial services companies to proactively reduce privacy and security risks. The experience of our members shows that speed, combined with clear safety directions for consumers, reduces the likelihood that fraud, further breaches and identity theft will occur in the future.

When a data security breach occurs, it is vital that consumers receive information about preventing or remedying harm related to the breach as quickly as possible. Similarly, communicating with a consumer who is the intended recipient of a money transfer is key to ensuring that the intended recipient receives the funds in a timely manner. Only automated calling – not manual dialing by live agents – delivers the scale and speed needed to reach numerous customers in a timely, efficient, and economical manner.

As the Commission is aware, consumers are increasingly abandoning landlines in favor of mobile devices. The financial services industry has adapted to changes in consumer preferences and behavior by transitioning to text and voice messages sent to mobile devices.

Automated text messages are functional and effective in reaching consumers and being read. Text messages are nearly instantaneous, and automatically-dialed voice calls and texts can reach more customers in any given period of time than manually-dialed calls. In addition, automated text and voice message calls to mobile phones reach consumers wherever they are. Research shows that 98% of text messages are opened and most are read within three minutes of delivery. The speed of text and voice calls to mobile devices allows financial services companies to get the word out quickly and also benefits consumers by enabling them to react promptly to contain any potential damage that might be caused by a data security breach.

Not surprisingly, consumers have made it clear that they want their financial services providers to use all available channels to deliver preventive and remedial information after a data breach. A 2010 survey conducted for SoundBite Communications Inc. showed that nearly 60 percent of consumers preferred to be contacted on their mobile telephones concerning potentially fraudulent activity, and that more than one in three consumers preferred to receive those notifications by means of text messaging. The

survey showed that consumers want these efficient communications channels to be used more frequently.<sup>4</sup>

FSR and its members are committed to raising consumer awareness about prevention, detection and recovery from identity theft. Since 2004, the Identity Theft Assistance Center, an FSR affiliate, has helped close to 150,000 individuals recover from identity theft. ITAC's website stresses that consumers should monitor their accounts and contact their financial services company if they detect signs of fraud.<sup>5</sup> I know from personal experience as President of ITAC that if consumers receive "actionable" information promptly after a threat is identified they can mitigate the risks of fraud and identity theft. Thus, it's vital that financial services companies can act without fear of frivolous lawsuits when they seek to deliver advice about actions needed to prevent or remedy harm from a data breach.

Thank you again for the opportunity to share with you the views of our members. If you have questions, please contact me at 202.589.1936 or [Anne.Wallace@FSRoundtable.org](mailto:Anne.Wallace@FSRoundtable.org).

Respectfully submitted,

A handwritten signature in black ink that reads "Anne Wallace". The signature is written in a cursive, flowing style.

Anne Wallace  
Senior Director, Consumer Financial Services  
ITAC President

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<sup>4</sup> *A Phone Call Isn't Enough: New Survey Shows 89 Percent of Consumers Want Fraud Communication Via Multiple Channels*, available at [http://www.harrisinteractive.com/vault/client\\_news\\_soundbite\\_2010\\_04.pdf](http://www.harrisinteractive.com/vault/client_news_soundbite_2010_04.pdf).

<sup>5</sup> See <http://fsroundtable.org/itac/>.